Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at http://about.jstor.org/participate-jstor/individuals/early-journal-content.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

BOOK REVIEWS.

Preliminary Report on Efficiency in the Administration of Justice. Prepared by Charles W. Eliot, Moorfield Storey, Louis D. Brandeis, Adolph J. Rodenbeck, and Roscoe Pound. The National Economic League, 6 Beacon Street, Boston, Mass.

The National Economic League reacted to the nation's awakened conscience on the subject of courts and law enforcement by devoting a year to research exclusively in this field. The work was intrusted to Charles W. Eliot, Louis D. Brandeis, Moorfield Storey, Adolph J. Rodenbeck, and Roscoe Pound. A preliminary report has been submitted to the bar and the press. It is to be presumed that after comment and criticism the final findings and recommendations of the committee will be widely published.

The committee seems to consider a good diagnosis equal to half a cure. The report is powerful in analysis, following closely Professor Pound's published articles on dissatisfaction with the administration of justice. But little could be added to the report as a summary of the various causes, general and local, which contribute in varying proportion at various places to our failure to make justice a practical accomplishment.

No people have more laws or more machinery for producing laws, such as they are. No people have more courts and judges. Our loaded shelves bear witness to the volume of transactions. We are a practical people, or proclaim ourselves such, but—

The faults lie deep, it appears, but they are by no means ineradicable. We put our courts to unnatural stress in many ways for we are a people living by law, and one could be excused for thinking that we are also living for law. But the idea is gaining ground that courts exist for man, rather than the converse. A careful study convinces us that there is nothing inherently perverse in lawyers, judges, and juries. They are the proper and natural machinery of justice. But as with any piece of machinery, the parts must be themselves right, and must bear a right relationship to each other, if there is to be efficient production.

The American people have been jealous of lawyers. A naïve conception of democratic equality, manifested in earlier days

by hatred of social and professional distinctions, keyed the attitude of the public toward that very necessary institution, the bar. A democratic bar has meant not a self-governing body, but a privileged trade overcrowded with half-educated lawyers, a profession so-called without organization, without leadership, without cohesion, without responsibilty to the state. This would not be so serious were it not for the fact that the bench must be recruited from the bar, and selection by popular vote is ill adapted to expert choice.

"In what may be styled fairly the classical period of American law the bench was for a greater portion of the time appointive, or, if elective, elected by the legislature and tenure was assured for life. Even after the movement for an elective judiciary gained strength about 1850, the traditions of the older order maintained a high standard for some time. Since the Civil War, except in New England, the bench has been elective with few exceptions and for the most part for relatively short terms. The constructive work in American law, the adaption of English case law and English statutes to the needs of a new country and the shaping of them into an American common law, was done by appointed judges while most of the technicality of procedure, mechanical jurisprudence and narrow adherence to eighteenth-century absolute ideas of which the public now complains is the work of elected judges. The illiberal decisions of the last quarter of the nineteenth century to which objection is made to-day were almost wholly the work of popularly elected judges with short tenure. Moreover where to-day we have appointive courts these courts in conservative communities have been liberal in questions of constitutional law where elective judges, holding for short terms, have been strict and reactionary."

In like forceful manner the report fixes blame upon the maze of legislative procedure which has grown up coincident with the elective judiciary. Many states have on the statute books from two thousand to three thousand procedural rules, which, enacted first for the purpose of compelling the judge to do what is right under certain circumstances, now often make it impossible for him to do the obviously simple and right thing under different circumstances.

These rigid rules, imposed by an alien authority, are largely responsible for the dependence of our popularly elected trial judges, who, in the words of Mr. Taft, are little more than modera-

tors presiding over the contentions of counsel. Under such a perverted system the jury is afforded but little aid and becomes an utterly disproportionate factor in affairs.

A fault almost everywhere prevailing in the States is the lack of organization in the judicial branch. We have numerous specialized tribunals in every state whereas we should have one unified court with specialized judges, their activities directed by some central and responsible mind.

The beginnings of reform in this field are seen. The brilliant achievements of the Municipal Court of Chicago and others founded on its central idea of co-ordination and responsible authority, surely point the way to thorough judicial organization on a state-wide basis.

Nor is it unreasonable to hope for ultimate reform in the selection and tenure of judges. Direct nomination, however successful for the purposes for which it was adopted, makes the judicial office more than ever one that beckons to the lawyer demagogue. The judicial recall, now happily well threshed out in the press and on the platform, shows the inherent fallacy of the traditional form of electing judges, for a hundred judges are sacrificed through periodic elections for every one that is lost to public service through the recall. The short ballot prevails in many cities and makes progress as a county and state reform. In time short ballot ideals will be accepted for the judiciary.

The bar begins to react to external pressure. Proposals for a thoroughly organized bar, of which every lawyer must necessarily be a member, and in which every lawyer will have an equal and indefeasible right of control and consequent responsibility, are in the air. One of the obligations of such an organized bar would be the education of its novices and if the history of similar bodies in all other civilized countries is repeated, this work will be done with enthusiasm.

The report might be more complete and more explicit with respect to remedial proposals, but it is a valuable document as it stands, and must itself be taken rather than any cramped review, for exposition of this crucial question.

Copies of the report are to be obtained upon application to the National Economic League, 6 Beacon street, Boston, Mass.

HERBERT HARLEY.